



KAISERSLAUTERN LEGAL SERVICES CENTER

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KAISERSLAUTERN LEGAL INFORMER

LANDSTUHL TAX CENTER MOVES TO LRMC HELIPORT



by Steve Smith

Since 2003, the Kaiserslautern Legal Services Center has provided free tax assistance services at various locations on Wilson Barracks, home to the Landstuhl Regional Medical Center, to better serve the medical community and those who live on the western edge of the Kaiserslautern Military Community.

For the last decade, the Landstuhl Tax Assistance Center operated out of Building 3701, near Wilson Barracks' back exit gate. We were informed in late November that we would have to find another location, as Building 3701 is about to undergo a \$8 million renovation that will convert it into a 22-chair dental clinic to replace the dental clinic on Pulaski Barracks.

Thanks to a dedicated effort by the U.S. Army Garrison Rheinland-Pfalz Department of Public Works, we were able to move to a much better facility at the Landstuhl Heliport, which you pass as you drive up the hill towards LRMC (look for the large white satellite dishes on your left, a mile before you come to the main gate of LRMC). Building 3368, which used to serve as the control tower for a medical evacuation aviation unit whose motto was "We Take Care of Our Own," is the new home of the Landstuhl Tax Assistance Center. That's a fitting motto for our tax center, too. In 2015, we took care of over 1,400 tax-payers at the Landstuhl Tax Assistance Center. We hope to care for even more at our new location during the 2016 tax season. See pages 4 and 5 for more information on the newest tax center in USAREUR.

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United States Army Judge Advocate General's Corps -America's Oldest Law Firm

Where to Go for Free Tax Assistance

by CPT Lauren Teel

Our tax assistance centers prepare and electronically file current and prior year federal and state income tax returns and amended returns, and assist clients in responding to tax notices. They offer walk-in, appointment, and drop off services. Eligible clients include service members, civilian employees, retirees, and dependent family members.

Taxpayers should bring the following documents with them to the tax center:

- ⇒ ID card, and all W-2, 1099, and 1098 forms
- ⇒ IRS Form 1095 (this is a new form for 2015), documenting that you (and your dependents, if applicable) had minimum essential health insurance coverage under Tricare, a Federal Employee Health Benefits plan, or some other kind of health insurance so you will not have to pay a fee as required by the Affordable Care Act
- ⇒ Social Security Number cards for spouse & dependents
- ⇒ Copies of last year's federal and state returns (if available)
- \Rightarrow A blank check or bank card bearing both the routing and account numbers of your checking or savings account
- ⇒ If filing jointly, bring your spouse with you, or bring a general power of attorney (or a special power of attorney for filing tax returns) signed by your spouse
- ⇒ If filing with a spouse who has no social security number, bring spouse's Individual Taxpayer Identification Number (ITIN); if your spouse has no ITIN, we can assist your spouse in applying for one.



What's New for TY 2015?

by Steve Smith

The average yearly exchange rate for 2015 is .937 Euro cents to the dollar. That's a big change from the rate for 2014, which was .784 Euro cents to the dollar. [All Euros amounts must be converted to dollars.]

Personal and dependency exemptions for 2015 are worth \$4,000. The standard deduction for married filing joint taxpayers is \$12,600; for single and married filing separate returns it is \$6,300, and for head of household filers it is \$9,250.

Mileage deduction rates for 2015 were 57.5 cents/mile for business miles, 23 cents/mile for medical and moving expense miles, and 14 cents/mile for miles driven for charitable purposes.

Taxpayers who are eligible to take the foreign earned income exclusion on Form 2555 or 2555-EZ can exclude up to \$100,800 for tax year 2015, but can no longer take the Additional Child Tax Credit.

The deadline for filing federal returns in the U.S. is April 18th this year, because April 15th (a Friday) is a federal holiday in the District of Columbia (Emancipation Day). The overseas filing deadline is June 15th.

Just because you have an automatic extension of the time to file your tax return doesn't mean you have more time to pay any taxes you owe. Overseas filers must pay any taxes owed for 2015 by April 18th to avoid assessment of late payment penalties, even if they are not yet ready to file their returns by April 18th.

Taxpayers who need even more time to file should submit Form 4868 by April 18th, and enclose a check for whatever they think they will owe. Form 4868 will extend the deadline for filing until October 15th. If a taxpayer pays more than is actually owed, the excess can be claimed back as a refund when the taxpayer is finally ready to file.



KAISERSLAUTERN LEGAL SERVICES CENTER

Building 3210 Kleber Kaserne

Legal Assistance 483-8848
Tax Assistance 483-7688
Claims 483-8855/8856
International Affairs 483-8859/8854
Trial Defense Service 483-8397
[Civilian: 0631-411-XXXX]

OFFICE OF THE STAFF JUDGE ADVOCATE

Building 3004 Panzer Kaserne

Administrative Law 484-8043 Criminal Law 484-7419 [Civilian: 0631-413-XXXX]

We're On the Web!

Current and back editions of this newsletter and articles we've published on legal assistance topics are posted on the 21st TSC OSIA website at:

http://www.eur.army.mil/21TSC/sja/LegalAssist/LegalAssistance.asp

Claims articles, information papers, brochures, and related information is posted at:

http://www.eur.army.mil/21TSC/SJA/Claims/Claims.asp

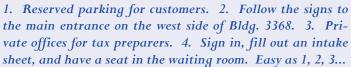
The "KLI" is also posted on milBook and shared with legal assistance and claims practitioners Army-wide.

The New Landstuhl Tax Assistance Center

















LRMC Commander COL James A. Laterza (second from right) and CSM J. Antez Gilbert (left) assist tax preparers SPC Amber West and SPC Michelle Lingham in cutting the cake as Tax Center OIC CPT Lauren Teel (right) looks on.

How to Find the New LRMC Tax Center

The new Landstuhl Tax Assistance Center is located in Bldg. 3368 at the Landstuhl Heliport, which is one mile west of the main gate to Wilson Barracks, home of Landstuhl Regional Medical Center. The Landstuhl Heliport is also home to SATCOM, and a series of large white satellite dishes. Enter the main gate, and follow the priority road that turns slightly to the left until you see the brown sign for Bldg. 3368 (shown on the cover of this newsletter). There is plenty of parking reserved for our customers. After parking, follow the signs directing you to the tax center's entrance on the west end of Bldg. 3368.



Some Helpful IRS Publications

- ⇒ IRS Publication 3, Armed Forces' Tax Guide
- ⇒ IRS Publication 17, Your Federal Income Tax (for Individuals)
- ⇒ IRS Publication 54, Tax Guide for U.S. Citizens & Resident Aliens Abroad
- ⇒ IRS Publication 516, U.S. Government Civilian Employees Stationed Abroad
- ⇒ IRS Publication 521, Moving Expenses
- ⇒ IRS Publication 523, Sale of a Home
- ⇒ IRS Publication 557, Residential Rental Property
- ⇒ IRS Publication 946, How to Depreciate Property
- ⇒ IRS Publication 590-A, Contributions to Individual Retirement Arrangements (IRAs)
- ⇒ IRS Publication 590-B, Distributions from Individual Retirement Arrangements (IRAs)
- ⇒ IRS Publication 556, Examination of Returns
- ⇒ IRS Publication 594, The IRS Collection Process

State Returns: A Big Part of Our Mission

An experienced tax attorney explains the challenges involved...

by Mark Christensen

Preparing state tax returns is one of the most complicated things our tax assistance centers do. There are 41 states that assess an income tax. The tax training our preparers receive is primarily focused on federal returns and completing IRS Form 1040 with schedules and supporting forms and worksheets. The various states each have their own income tax structure, which presents a major challenge for our tax preparers. Of the 7,548 tax returns generated by 21st TSC tax assistance centers during the 2015 tax season, almost 2,200 of them were state returns.

First, remember that having a state of legal residence does not change because the taxpayer is outside the state. Taxpayers retain their state of legal residence until they become a resident of new state, and unless the new resi-



dent status is properly obtained and maintained the losing state may continue to assess tax. The Servicemembers Civil Relief Act and amendments permit military members and sometimes the military spouse to retain a state of legal residence even though they live outside their state.

There are different taxing schemes. States tax residents based on the taxpayer's federal adjusted gross income, federal taxable income, gross income, or as a percentage of their federal tax liability. The states vary in treatment of additions, deductions, credits, and breaks to military members, or to residents who reside outside the state or the U.S. during the tax year. Some states impose locality taxes or use a different tax rate based on the school district, city, or county of the taxpayer's residence.

The 41 states that have an income tax also permit various filing statuses. Some residents are permitted to file joint or separate returns based on the residency of the spouse. Taxpayers may be permitted to file a nonresident return even though they keep their state of legal residence. Some states use physical presence tests for residents to use to determine whether they can file as a resident, nonresident, and a joint or separate return.

These are all issues tax preparers must sort out when preparing a return. Where married taxpayers claim different states of legal residence the preparer must ensure each state return is accurate and complete and properly excludes a spouse's income from taxation on the other's return. When you are ready to have returns prepared, make sure you give the preparer enough information to prepare not only your federal return but your state return(s) as well. Look at prior year returns to determine what school district, city, or county code is required. Inform the preparer of your state residency status, especially if your spouse claims a different state of legal residence. Be patient as the preparer verifies a state's treatment of income, residency, and filing status. Our preparers work hard to prepare a complete and accurate return, and state tax returns are just as important as, and often much more complex than, federal returns.

German Tax Authorities Cracking Down

A German tax attorney provides an update on a disturbing trend...

by Joerg Moddelmog

In the Winter 2012 edition of this newsletter, we reported a disturbing trend: an increased interest by the German tax authorities in our readers' U.S. Government pay. Regrettably, that trend continues and is getting worse.

Article X, paragraph 1, of the NATO Status of Forces Agreement (NATO SOFA) shields your U.S. Government income from German taxation if and as long as you are **SOLELY** in Germany because of your U.S. Government job. You are not considered to be an ordinary resident of Germany for tax purposes just because you are stationed



here. However, there are two scenarios under which the tax protections afforded by the NATO SOFA can be unilaterally chipped away by the German authorities:

- (1) If you file a German tax return in a married filing joint status ("Zusammenveranlagung"), your signature on the return will be seen an express request by you to be treated as an ordinary resident for German tax purposes and, as a consequence, all of your worldwide income will have to be reported on your German tax return. The German Finance Office ("Finanzamt") will normally ask for your W-2. Although you may have inadvertently filed jointly because you didn't understand what you were signing or because you were talked into it, neither is an acceptable defense.
- (2) The German Finanzamt may also probe into your "true" reasons for being in Germany, looking for criteria like being married to a German, owning a house in Germany, having your kids attend German school, and/or having simply been in Germany for "too long." In such a case you will bear the full burden of proof to demonstrate that you have been, were, and still are ready and able to leave Germany (i.e., that you have a so-called "Rückkehrwille" or "intent to return" to the U.S.). Germany's Constitutional Court already ruled in 2010 that merely being here under government orders is no defense and is considered insufficient proof of intent to return.

Germany's Supreme Federal Tax Court (the "Bundesfinanzgerichtshof" or BFH) in Munich recently confirmed once more the German Finance Offices' encroachment on SOFA rights. It unanimously upheld the full burden of proof standard, allowing the Finance Offices to win by simply creating plausible alternatives, while diminishing the chances you will be able to make persuasive counter-arguments. If you think it is easy to prove your intent to return, you might find these examples from recent cases shocking:

- ⇒ You argue that you bought your house as an investment and because you don't like having to deal with land-lords, but the Finance Office will contend it was bought in order to create a permanent long-term home for your German family, as the German cultural concept is to build for generational settlement.
- ⇒ You argue that you send your kids to an international school in Germany so that they can switch to an international school at your next duty station, but the Finance Office will contend that such an international education is for the general benefit of your children and no indication of your intent to return to the U.S.
- ⇒ You point out that you just accepted a job back in CONUS as proof of your intent to return, but the Finance Office will contend that you merely applied because of their investigation, and that you lacked any prior voluntary intent to return.

If your spouse files "his" or "her" German taxes and asks for your W-2, or if you receive a questionnaire from the German Finance Office asking about your ties to Germany as opposed to your stateside ties, you would be well-advised to make an appointment to see a German legal assistance attorney by calling DSN 483-8848 or Civilian 0631-411-8848.

Watch Out for Automatic Renewal Clauses

A German attorney explains this common "trap for the unwary"....

by Holger Blug

One of the first things you probably did when you arrived in Germany was sign a cell phone contract. Although some cell phone service providers give you the opportunity to sign a month -to-month contract, most customers choose to go with a 24-month contract because the monthly fees are lower and there is usually a good chance of acquiring one of the newest and fanciest cell phones at a more favorable price. However, when customers sign their contract, most do not realize that in Germany a 24-month contract lasts for at least 24 months, and sometimes even longer.



First of all, it is important to recognize that German cell phone contracts have no military clause which allows you to cancel your contract early in the event of a deployment or a PCS move. However, you still might want to give it a try as some providers may be kind enough to

let you out of the contract (although they still might require you to pay a penalty). For landline phones and internet service, the situation is a little better, as the German Telecommunications Act allows you to cancel such a contract with three-months' notice if the service provider is not able to provide the service at your new address.

Customers often complain that it is unreasonable and very unfair to be forced to pay for a service that they can no longer use, but they need to understand that the only reason the phone companies offered them such a low-priced contract in the first place is because the company was relying on receiving payments for at least 24 months. Contracts that are terminated earlier are not a paying proposition for the company. For their viewpoint, they are still willing to provide the 24 months of service agreed upon in the contract; it is the customer who is backing out early and should suffer accordingly.

The most important fact to know about these fixed-term contracts is that, although they are referred to as 24-month contracts, they do not automatically end after 24 months. 24 months is considered the <u>minimum</u> duration of the contract. These contracts automatically extend for another 12 months if you forget to cancel them in time. The cancelation notice period is usually three months, which means the customer must give notice of his intent to cancel the contract at least three months before it is due to expire; otherwise, it will automatically be renewed for another 12 months. The tricky part is that you won't find the automatic renewal clause on the front page of your contract, but only in the fine print of the business terms. Hence, many customers are not aware of that automatic renewal clause, but, as these clauses are considered valid under German law, you need to watch out and make sure you don't forget to cancel your contract in time, if you want the contract to end.

Such a cancelation needs to be in writing, and the customer has the burden of proving that the contract was canceled. This means it is not sufficient to walk into the shop and tell them that you don't want or need the contract anymore. You need to make sure you get a receipt or written confirmation stating that the contract is canceled as of a certain date. It is advisable to send a cancelation letter by registered mail, so you can prove that the company received the letter on a particular date.

Although the automatic renewal clauses are a well-known problem when it comes to phones and internet, they are not the only types of contracts that contain these clauses. Another popular one is the BahnCard. Train travel in Europe is very common because the rail network is so good. However, when you go to the train station to buy a ticket, they will probably tell you that the ticket is much cheaper if you sign up for a BahnCard. Although this is usually true, they neglect to tell you that the BahnCard is a sort of membership which has to be canceled by you within a certain period of time; otherwise it renews for another 12 months. So you should make sure to cancel your BahnCard if you do not plan to take more trips by train. Automatic renewal clauses also apply to ADAC and gym memberships and many other contractual relationships.

To make an appointment with a German legal assistance attorney, contact the Kaiserslautern Legal Services Center's Legal Assistance Office at DSN 483-8848 or Civilian 0631-411-8848.

European Travelers Beware

Your NATO SOFA protections only go so far...

by Pete Masterton

One of the pleasures of being stationed in Europe is the ability to travel. However, as with all pleasures, there are risks. Travelers need to be familiar with and obey local laws. Those who get in trouble with the law in a foreign country may find themselves stuck in a foreign prison or tried in a foreign court.

If you are a Soldier stationed in Germany, the protections provided for in the North Atlantic Treaty Organization Status of Forces Agreement (NATO SOFA) apply as long as you stay in Germany. You are required to obey German law and can be punished for violations. If you commit a criminal offense, the



United States and Germany will cooperate in the investigation of your case. If you are prosecuted, German officials will generally turn your case over to the United States for non-judicial punishment or trial. In this situation, your case will be heard by an American commander or court-martial and you will receive free representation by a military attorney, rather than face trial in a German court where the language and procedures may be foreign.

Unfortunately, the same is not true for Soldiers stationed in Germany who travel on leave outside of Germany. Once Soldiers depart the country where they are stationed, many of the protections of the NATO SOFA disappear. For example, if a Soldier stationed in Kaiserslautern goes on leave to France and gets in trouble, the NATO SOFA provisions encouraging cooperation and release of jurisdiction will not

apply. The Soldier may find himself confined in a French jail pending trial. If this is the case, there may be little the Soldier's unit can do to obtain his or her release. While the U.S. Army and the Department of State will do what they can to ensure the Soldier is treated fairly and is allowed to return to his home station, the French authorities are not required to release the Soldier. In addition, since the offense occurred outside the country in which the Soldier is stationed, a foreign trial will not bar a second trial by court-martial for the same offense.



All Soldiers should be familiar with and obey local laws. This is especially important when Soldiers travel outside the country where they are stationed. We are guests in Europe and must show respect for local customs and laws.

SOFA Claims and Unit Claims Officers

A claims attorney explains the importance of prompt reporting...

by CPT Wayne Janoe

As U.S. Forces increase operations across Europe, incidents resulting in property damage and personal injury, such as traffic accidents, are inevitable. Foreign nationals and other proper claimants who suffer damage or injury involving U.S. military activities may file a claim with the host-nation claims office where the incident occurred. It is vital that units gather relevant facts at the scene and promptly notify their servicing Judge Advocate, who will work with the Claims Judge Advocate and the United States Army Claims Service Europe (USACSEUR) to guide the unit through the appropriate investigative process.



Claims costs from U.S. military activities can be high, and potential claims incidents may have international implications. Under the NATO and Partnership for Peace (PfP) Status of Forces Agreements (SOFAs), USACSEUR and host nations work together to investigate and resolve SOFA claims for which the U.S. Army has claims responsibility. While claimants file directly with the host-nation claims office, it is imperative that USACSEUR receive relevant information directly from the unit in order to ensure a fair resolution.

The following steps will help ensure proper processing of SOFA claims:

- ⇒ Commanders should appoint a standing Unit Claims Officer (UCO). Army regulations require prompt investigation of potential claims incidents, and commanders of battalion-sized units and above must appoint a UCO to conduct initial factual investigations and coordinate with claims personnel. UCOs should be appointed on standing orders to ensure timely investigation and technical proficiency.
- ⇒ Units must report incidents promptly and conduct an appropriate investigation. Soldiers and civilians must be aware of the possibility of SOFA claims, and units must quickly report incidents to their servicing Judge Advocate. Failure to do so can have serious consequences. Some incidents require only an informal and brief investigation. Others require a more formal and detailed process. The servicing Judge Advocate and claims personnel will help determine the suitable level of investigation in each case.
- ⇒ U.S. personnel must exchange required information with potential claimants at the scene. It is usually advisable to contact local police. U.S. personnel should provide the potential claimant with a telephone number and unit point of contact. The full name, address, phone number, and license plate number (if applicable) of the potential claimant, insurance information (if applicable), and a short description of the incident should be forwarded up the chain of command and to the unit's servicing Judge Advocate.
- ⇒ U.S. personnel should never admit fault or liability at the scene. Determination of fault will be accomplished through the claims process. It is never a good idea to sign a statement admitting personal liability for an incident. U.S. personnel should not sign anything they can't read and should only confirm facts when communicating with local police or potential claimants.
- ⇒ And, as always, contact your local Claims Office if you have any questions.

The Kaiserslautern Legal Services Center Claims Judge Advocate can be reached at DSN 483-8414 or Civilian 0631-411-8414. USACSEUR's Tort Claims Division, which handles SOFA claims, can be reached at DSN 537-0648/0649/0652 or Civilian 0631-143-537-0648/0649/0652.

The Ethics Corner...

by Robert Vedra

SOCIAL MEDIA & COVERNALEMENTS

In my last article I discussed the application of government ethics rules to social media in the context of political activity. In this edition, I'd like to widen the focus and take a more general look at government ethics rules for social media.

The Office of Government Ethics (OGE), which oversees the federal executive branch ethics program, provides advisory guidance to federal executive agencies on matters subject to interpretation or that otherwise lack clarity. These advisories are available online at http://www.oge.gov/OGE-Advisories/Index/. Recognizing the prevalence of social me-



dia use in federal executive agencies and by federal employees, last year OGE issued "The Standards of Conduct as Applied to Personal Social Media Use." This advisory, dated April 9, 2015, provides guidance to federal employees, including Soldiers, on seven different areas of social media use: use of government time and property; reference to government title or position and appearance of official sanction; recommending and endorsing others; seeking employment; disclosing nonpublic information; personal fundraising; and official social media accounts. Although space limitations prevent discussion of every guideline, I would like to highlight a couple of important points.

Under the heading of "use of government time and property," the OGE reminds employees they are required by 5 CFR 2635.705 to use official time in an honest effort to perform official duties. This means access to and use of personal social media are limited on duty. For Soldiers and DA Civilians, this is not an absolute prohibition, because the Army authorizes some limited personal uses of official communication systems, which it calls "authorized use." Since the examples of authorized use include "brief internet searches and emailing directions to visiting relatives," employees and Soldiers would be wise to strictly limit personal social media use at the office. For more guidance, see paragraph 2-301a (2) of DoD 5500.7-R (the Joint Ethics Regulation, available online at http://www.dtic.mil/whs/directives/corres/pdf/550007r.pdf) and paragraph 2-1g of Army Regulation 25-13 (Telecommunications and Unified Capabilities, available online at http://www.apd.army.mil/pdffiles/r25 13.pdf).

While Soldiers and DA Civilians may use personal social media to raise funds for nonprofit charitable organizations in their personal capacities, they must be careful to remember they are not allowed to personally solicit funds from subordinates or prohibited sources. (For a definition of "prohibited source" see 5 CFR 2635.203(d), available online at http://www.ecfr.gov/cgi-bin/text-idx?SID=7b73efd6b0774317265c023d404c0386&mc=true&node=se5.3.2635 1203&rgn=div8.) Someone who posts a general fundraising announcement or request on social media will not be in trouble simply because he or she is connected to a subordinate or prohibited source on the social network, even if someone in those categories views, comments on, or even responds to the post. The federal employee runs into trouble, however, if he or she responds to a subordinate's or prohibited source's inquiry about the fundraising post, or if he or she specifically references, links to, or in some other manner targets a subordinate or prohibited source when fundraising on social media. Clearly, caution is warranted.

If you are plugged in to social media, it is well worth your time and effort to look up this OGE advisory and become familiar with it. The time you take now may save you a lot more time and trouble later. As always, if you have questions, talk to your local Ethics Counselor.



MAJ Brad Gwillim, the Kaiserslautern Legal Services Center OIC (right) congratulates KLSC employees who received Length of Service Awards in February. Claims Examiner Karin Jordan (center) was recognized for 35 years of service. German Attorney-Advisor Holger Blug (left) was recognized for 10 years of service.

Directions to Kleber Kaserne: From Vogelweh, Ramstein, or Landstuhl take the A6 direction Mannheim. On your right you will see a large store called Möbel Martin. Make sure you are in the right lane as you take the Kaiserslautern Ost Ausfahrt (exit). Turn right as you leave the exit ramp and drive downhill until you reach a stop light. Proceed straight ahead at the intersection and follow the priority road as it curves to the right behind the Real store. Enter Kleber Kaserne by the east gate. Turn right after passing the clinic. Drive north until you reach an intersection with 4 stop signs. Bldg. 3210 sits to the left of that intersection. Parking on Kleber Kaserne is difficult—allow a few extra minutes to circulate until you find an open spot. Enter Bldg. 3210 from the door on the east end of the building (see photo of Bldg. 3210 on page 3).

